

Ronald Altbach – October 30, 2020

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Master docket No. 18-MD-2865 (LAK)
4 Case Nos. 18-cv-09505

5 IN RE:)
6)
7 CUSTOMS AND TAX ADMINISTRATION OF)
8 THE KINGDOM OF DENMARK (SKATTEFOR)
9 VALTNINGEN) TAX REFUND SCHEME)
10 LITIGATION,)
11))
12))
13))
14 REMOTE VTC VIDEOTAPED DEPOSITION UNDER ORAL
15 EXAMINATION OF
16 RONALD ALTBACH
17 DATE: October 30, 2020
18
19
20
21
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23
24
25 REPORTED BY: MICHAEL FRIEDMAN, CCR

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1 R O N A L D A L T B A C H,
2 called as a witness, having been first
3 duly sworn according to law, testifies as follows:
4
5
6
7

8 EXAMINATION BY MR. MCGOEY:

9 Q Good morning, Mr. Altbach. We
10 spoke briefly earlier, but let me introduce
11 myself. My name is John McGoey from the law
12 firm of Hughes, Hubbard & Reed, and we
13 represent plaintiff SKAT in this matter.

14 Have you ever been deposed before?

15 A Yes.

16 Q Okay. How recently?

17 A I would say 1986.

18 Q Okay. So probably worth going over
19 some ground rules then.

20 The first is, you've heard Mike's
21 voice today. He's our court reporter. So
22 he's going to be take down everything that
23 you're saying.

24 So to assist him with that, if you
25 could let me finish my questions before you

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1 (Brief recess taken.)

2 THE VIDEOGRAPHER: Stand by. The
3 time is 10:37 a.m. and we're back on
4 record.

5 Q Mr. Altbach, you mentioned Mr. Van
6 Merkensteijn asking about your net worth.

7 Did you need to have a minimum net
8 worth to participate in this pension plan
9 strategy?

10 A I don't know.

11 Q So you provided a financial
12 statement to Mr. Van Merkensteijn?

13 A Yes.

14 Q Did he have any follow-up after
15 that?

16 A I don't recall.

17 Q So then he asked you if you had any
18 pension plans and you responded you did not.

19 Is that correct?

20 A That is correct.

21 Q So what happened next?

22 A Well, he invited me to -- to be
23 part of a -- part of the transactions.

24 Q What type of transactions?

25 A As I -- as I remember, I don't

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1 remember exactly how he put it, but that I
2 would -- I would -- I would -- there would be
3 five LLCs and each LLC would have a pension
4 -- a -- not a pension plan, specifically a
5 Roth 401(k) plan.

6 Q So you would set up five LLCs
7 which, in turn, would have five pension plans
8 or four --

9 A That's not right, no.

10 Q Okay.

11 A That there would be five LLCs and
12 each one would have a Roth 401(k) plan.

13 Q Okay.

14 A There was no -- there was no
15 mention of me setting up anything.

16 Q Understood. Thank you for that
17 clarification.

18 Why -- why did LLCs and 401(k)s
19 need to be set up?

20 A I honestly don't really know.

21 Q Did Mr. Van Merkenstein describe
22 at all how this strategy was going to make
23 money?

24 A He just -- I don't remember
25 specifically, no. He just -- let me just

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1 pension plans and LLCs would be set up that
2 were related to you?

3 MS. RICE: Objection.

4 A I don't think so.

5 THE WITNESS: Sorry.

6 MS. RICE: Mr. Altbach, just give
7 me a second to jump in if I need to.

8 Objection to form, but you can answer.

9 A I don't recall and I don't think I
10 did.

11 Q So when Mr. Van Merkenstein
12 presented this opportunity, did you ask any
13 questions about how it would work?

14 A I don't think I did.

15 Q Did he describe at all how much
16 money you could potentially make?

17 A I believe -- I believe he did.

18 Q What did he tell you?

19 A As I recall, he said that each one
20 of the plans could potentially make around
21 \$50,000.

22 Q And you had no understanding
23 about how that \$50,000 --

24 A Sorry, can't hear you.

25 Q And you had no idea how that

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1 \$50,000 per plan would be generated?

2 A No.

3 Q Did he discuss any risk related to
4 the investment?

5 A Any what?

6 Q Risks.

7 A No. Specifically that I would have
8 no risk and no investment. You're calling it
9 an investment, but I didn't make an
10 investment.

11 Q And you would not have to put up
12 any money?

13 A This is -- this is a failed effort
14 at hearing, unfortunately.

15 MR. MCGOEY: Let's go off the
16 record. We need to find a solution.

17 THE VIDEOGRAPHER: Stand by. The
18 time is 10:49 a.m. and we're going off
19 the record.

20 (Brief recess taken.)

21 THE VIDEOGRAPHER: Stand by. The
22 time is 10:53 a.m. and we're back on
23 record.

24 Q Mr. Altbach, did you understand
25 that Mr. Van Merkenstein was also profiting

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1 actually.

2 Q Did you, at some point, receive
3 proceeds in connection with pension plans
4 being set up on your behalf?

5 A That I received proceeds? I
6 received, you're asking me, right?

7 And the answer to that is no.

8 Q Okay. Did your pension plans
9 receive proceeds after they were set up on
10 your behalf?

11 A Yes.

12 Q At that point, did you understand
13 what activities they were undertaking to
14 generate money?

15 A In a very general sense, yes.

16 Q Okay. And what was that general
17 understanding?

18 A That there was trading in
19 securities.

20 Q And how did you come to that
21 understanding?

22 A I believe in a conversation with
23 Mr. Van Merkensteijn.

24 Q Did you ask what the pension plans
25 were doing?

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1 A I don't recall asking what my
2 pension plans were doing, if that's what
3 you're asking me.

4 Q Okay. What precipitated him
5 telling you that -- well, let me withdraw
6 that.

7 Did Mr. Van Merkenstein tell you
8 that the pension plans were trading?

9 A Mr. Van Merkenstein told me that
10 the pension plans would be trading.

11 Q Okay. And do you recall when that
12 was?

13 A Sometime -- sometime between the
14 summer of 2014 and early 2015.

15 Q So he told you there would be
16 trading.

17 Did he tell you what type of
18 trading they'd be doing?

19 A Let's see. Did he tell me what
20 kind of trading? The buying and selling of
21 stocks.

22 Q Any specific type of stocks?

23 A Well, stocks in -- not in the
24 United States.

25 Q Did he tell you any specific

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1 countries' stocks that they would be buying
2 and selling?

3 A I think that around that time, he
4 told me it was going to be in Belgium and in
5 Denmark.

6 Q Did he tell you why they would be
7 buying and selling Belgian and Danish stocks?

8 A He told me that was the strategy.

9 Q Did he explain why the strategy
10 involved foreign shares of stock?

11 A Involved what?

12 Q Foreign shares of stock? Non-U. S. ?

13 A Are you saying foreign,
14 F-O-R-E-I-G-N? It's not perfectly clear.

15 He did say that there was some --
16 some involvement of a -- yes, he did say
17 that.

18 He did tell me, yeah.

19 Q Okay. And what did he tell you?

20 A He told me that there was -- there
21 was a strategy between the U. S. and whatever
22 the countries would be in terms of the tax
23 treaties.

24 Q So how would the tax treaties help
25 the pension plans generate money?

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1 answer to that is -- I believe the answer to
2 that is yes.

3 Q Okay. And what was that
4 understanding?

5 A That -- my understanding was that
6 Kaye Scholer would -- would basically handle
7 all -- all details, all documents, all
8 relevant issues on behalf of the plans.

9 Q Okay. You mentioned relevant
10 issues.

11 What would those potentially be?

12 A The setting up of bank accounts.

13 Q Anything else?

14 A That was the first relevant issue
15 because they -- that was the first relevant
16 issue.

17 Q Was that because that was the first
18 thing that needed to happen?

19 A Yes.

20 Q What was going to happen after
21 those bank accounts were set up?

22 A That, I don't actually know.

23 Q Do you remember anything that was
24 supposed to occur after the bank accounts
25 were set up?

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1 A From time to time, documents needed
2 to be signed, and they were prepared by
3 Kaye Scholer. And I was given signature
4 pages, usually separate from the documents,
5 to sign.

6 Q Whose idea was it to just provide
7 you signature pages?

8 MS. RICE: Objection.

9 A I have no idea. I don't know.

10 Q You didn't specifically request
11 that?

12 A No.

13 Q Okay. The first paragraph of this
14 document --

15 A Uh-huh.

16 Q -- it states, "Ronald Altbach" --
17 it lists your address -- "intends to, either
18 directly or indirectly, through entities
19 beneficially owned by him or established by
20 him, including one or more limited liability
21 companies and related qualified pension plans
22 through Section 401(k) of the Internal
23 Revenue Code in 1986, enter into agreements
24 to purchase stock."

25 Did you understand that to be part

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1 Yes.

2 Q Okay. So this is an e-mail. The
3 bottom e-mail is from Mr. Van Merkensteijn.
4 It doesn't list the recipients.

5 He's talking about needing to come
6 to a decision about which plans will trade or
7 not in the next month or so.

8 Do you recall if you received this
9 e-mail?

10 A I do recall, yes.

11 Q Okay. You do recall receiving
12 this.

13 And do you know what decision had
14 to be made at this point?

15 MS. RICE: Objection. If you
16 understand that question, you can answer
17 it.

18 A Well, you said did I know what
19 decision had to be made. Yes, I know.

20 Q What decision was that?

21 A Whether the -- whether the
22 individual plans would -- would trade or not.

23 Q Okay. So at the time you received
24 this e-mail, do you recall if you knew that
25 the plans had, at that point, done any

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1 trading?

2 A I don't recall.

3 Q Okay. And had you discussed --
4 withdrawn.

5 Did you ultimately make a decision
6 on whether or not your plan should trade --
7 your plans should trade?

8 A Yes, I made a decision.

9 Q Okay. What was that decision?

10 A That the plans should trade.

11 Q Okay. Do you recall what the
12 considerations in that decision were?

13 A I recall what I think that they
14 were, yeah.

15 Q Well, what do you recall?

16 A If the -- if the -- if the decision
17 was to just leave the plan in place with the
18 LLC, then it's just a plan, and there would
19 be no income coming into it as a result of
20 this opportunity. But if the plans
21 participated in the opportunity of trading,
22 then there was a chance of the plan making
23 some money.

24 Q Were you aware of any potential
25 downsides to trading?

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1 A No. The answer is I was not aware
2 that there was any downside.

3 Q So was it an easy decision to tell
4 Mr. Van Merkensteijn to go ahead with the
5 trading?

6 A Was it an easy decision? I thought
7 about it.

8 Q But you ultimately decided to go
9 forward?

10 A Right.

11 Q If you turn to the next exhibit,
12 which is Exhibit 64, previously marked?

13 A Uh-huh.

14 Q So the middle e-mail on the page is
15 from Stephanie Furr to several recipients and
16 you're cc'd. And it refers to a conference
17 call on January 31st.

18 And the first question: Do you
19 know who Stephanie Furr is?

20 A I do, yes.

21 Q Who is that?

22 A She, as her e-mail suggests, is
23 a -- is a personal assistant to the
24 Van Merkensteijns.

25 Q Do you recall if you participated

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1 in the conference call that's discussed here?

2 A I believe I did.

3 Q Do you recall what was discussed on
4 that call?

5 A I recall -- I recall -- I recall
6 some of it, sure.

7 Q Okay. What discussion do you
8 recall?

9 A When the -- that -- I recall that
10 there -- that the -- sorry, I'm having a
11 little bit of trouble -- the -- that the
12 plans would start or were expected to start
13 trading soon. And the decision had to be
14 final -- finally, the decision had to be made
15 that they were going to trade.

16 Q Okay. Do you remember, did someone
17 lead the call?

18 A Did somebody lead? L-E-A-D?

19 Q Yes.

20 A I don't remember if it was -- no, I
21 don't remember who it was. Sorry.

22 I don't remember which -- which of
23 the people led the call.

24 Q Okay. On the call, was there any
25 discussion to the advantages or disadvantages

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1 of going forward with the trading?

2 A I think -- well, the discussion was
3 that without trading, there would be no
4 income to the plan.

5 Q Sure. Okay.

6 So that's a reason to do it.

7 Right?

8 A Yeah.

9 Q Did anyone discuss reasons not to
10 do it?

11 A I'm sorry that I -- I don't recall
12 that.

13 Q Did you speak at all on the call,
14 to your recollection?

15 A I -- I -- I'd be shocked if I spoke
16 on the call.

17 Q Okay.

18 A But -- and let me just add to that.
19 Because I don't think that this call required
20 an answer, immediate answer.

21 This was an information call.

22 Q Do you recall any information that
23 was provided?

24 A I do.

25 Q And what was that?

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1 A There -- the information that I
2 recall was that -- that similar types of
3 opportunities had been -- had been deployed
4 in other countries and they with no longer
5 available because tax codes had changed in
6 other countries like Germany.

7 I think -- I think that was the
8 crux of the call.

9 Q Do you remember who shared that
10 information?

11 A No. I mean, I can -- I can -- I
12 can conjecture that it was either Rich or
13 John, but I don't -- I don't remember hearing
14 the voice that said -- that was giving it, so
15 I have to answer you "no."

16 Q Okay. Do you know why it was
17 relevant that these opportunities were no
18 longer available in other countries?

19 MS. RICE: I -- I object on the
20 ground of relevant to who? Relevant
21 to -- relevant to Ron? Relevant to the
22 speaker, whoever the speaker was?

23 Relevant to who?

24 Q Well, you were participating in
25 this call, right, and that information was

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1 shared.

2 So did you have an understanding as
3 to why you were being informed of that?

4 A The answer is -- I think the answer
5 is it was part of the -- making a decision of
6 wanting to trade or not wanting to trade.

7 Q Was it because that meant similar
8 changes could be coming to tax codes in other
9 countries?

10 MS. RICE: Objection.

11 A Yeah, I don't -- I can't -- I can't
12 like -- I can't try to imagine why -- why --
13 you know, what the purpose was.

14 The purpose of the call was to
15 decide whether or not these -- my plans, for
16 me, the purpose was -- my plans were going to
17 go forward. I put a bunch of effort into it
18 and the question is did I want to now stop,
19 or did I want to continue, with no risk, to
20 see whether my plans were going to make some
21 money.

22 Q Okay. When you say that you put "a
23 bunch of effort into it," does that refer to
24 signing paperwork in connection with the LLCs
25 and pension plans?

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1 A Yeah. I mean, I had to run around,
2 I had to go over to the office to get the
3 Notary, I had to get certain things
4 notarized. They sent me lots of signature
5 pages, I don't remember even how many.

6 And -- and, you know, I mean
7 everything takes time. There's only so many
8 hours in the day.

9 So yes, I felt that I had put in
10 effort and had not seen any return to that
11 date except that I spent a hundred dollars on
12 each of my -- on each of my bank accounts,
13 you know, and I wasn't about to spend any
14 more money.

15 Q Do you -- do you recall if your
16 plans had been doing any trading previous to
17 this call?

18 A I think you just asked me that and
19 I said no.

20 Q You don't. Okay.

21 A Not that -- the answer is not that
22 I know of. So I don't recall, right.

23 Q The information about tax codes
24 changing in some countries, did that factor
25 into your decision?

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1 A No. There was an article in a
2 paper. It wasn't -- it wasn't like some big
3 surprise. I read it in the New York Times at
4 one point, or the Wall Street Journal.

5 I can't remember.

6 Q So you had read an article that
7 related to countries changing their tax
8 codes.

9 Is that correct?

10 A Yes.

11 Q And was it your understanding that
12 they were changing their tax codes to make
13 strategies like the ones you were involved in
14 less successful?

15 A My -- my understanding was very
16 rudimentary because I didn't -- I didn't know
17 what the strategy was. But countries, I'm --
18 like I said, I'm 73.

19 And I remember when, in the early
20 '80s, a huge industry in the United States
21 was stopped, the tax shelter business was
22 stopped during the Reagan years and TEFRA
23 act.

24 So it seemed -- just seemed to me,
25 you're asking me if I'm speaking too much,

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1 but every once in a while, tax codes change
2 because smart lawyers like you guys find ways
3 of helping people who make money to pay
4 fewer -- pay lower taxes.

5 So that's what the article was
6 about. And since, you know, it seemed
7 logical that that would happen at other
8 countries potentially.

9 I don't know.

10 Q So earlier, you testified that you
11 understood, to the extent some trading was
12 going to take place with the strategy, it was
13 in Danish and Belgian shares?

14 Is that -- am I remembering that
15 correctly?

16 A Yes, I think you remembered that
17 correctly.

18 Q On the call, was there any
19 discussion about potential changes to the tax
20 codes in Denmark or Belgium?

21 A I don't recall that there was.

22 Q You testified that you didn't have
23 to give your answer on this call.

24 And did you, in fact, not give your
25 decision on the call?

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1 A I didn't. I did not.

2 Q Okay. When did you reach a
3 decision?

4 A Sometime soon thereafter. I'm
5 sorry that I don't remember how many days.

6 Q That's fine.

7 Did you communicate that decision
8 to anyone?

9 A I did.

10 Q To whom?

11 A To John Van Merkensteijn.

12 Q Do you recall that conversation?

13 A Nope.

14 Q You just recall that you told him
15 that you wanted to move forward?

16 A Exactly.

17 Q Okay. And at that point in time,
18 you understood that this would involve the
19 pension plans who were affiliated with your
20 LLCs trading in Danish or Belgian stocks?

21 A Well, you're saying that I
22 understood it. I -- I believed that was
23 going to be the case.

24 Q Did you, at any point in 2014 or
25 2015, review any documentation relating to

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1 trade that your pension -- that the pension
2 plans associated with your LLCs engaged in?

3 A No, I did not.

4 Q Okay. Do you know if you had
5 access to any such documentation?

6 A I never asked for access, so I -- I
7 never asked for access.

8 Q Okay. I'm trying to avoid showing
9 you some documents. So I'm trying to avoid
10 some exhibits here.

11 A Well, and I'm trying to answer you
12 the -- to the best of my ability.

13 Q I know.

14 Setting aside transactions that the
15 pension plans may have engaged in, did you
16 ever receive account statements for the
17 pension plans? And actually, let me clarify
18 that, that this refers to account statements
19 from institutions such as Solo, Telesto,
20 West Point, or Old Park Lane?

21 A No.

22 Q Okay. And do you know if you had
23 access to any such statements?

24 A I -- again, I -- I could have had
25 if I would have asked, but I didn't ask.

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1 know the timing, if it was after the
2 litigation or before, but it was around that
3 time, I guess, in 2016, '17.

4 Q Okay. Yes.

5 In 2014 or 2015, were you aware of
6 your plan's submitting any claims?

7 MS. RICE: To the Danish taxing
8 authority, correct?

9 MR. MCGOEY: Yes.

10 A No, I don't believe so. I never
11 saw such a claim, as an example. Never saw
12 it.

13 Q Let me -- I'm going to ask you to
14 turn to Exhibit 1033?

15 MR. MCGOEY: Mark this as 1033.

16 (Whereupon the above mentioned was
17 marked for Identification.)

18 A Okay.

19 Q So this is one of the claims I was
20 just referring to and just want to confirm.

21 As far as you knew, you did not
22 review this prior to it being submitted to
23 the Danish government?

24 A I definitely did not.

25 Q Okay. If you could flip to the

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1 next exhibit, and to the first two exhibits
2 in the next binder, and confirm that that's
3 also the case for those two claims?

4 MR. MCGOEY: So this is Exhibits
5 1034, 1035, and 1036.

6 (Whereupon the above mentioned was
7 marked for Identification.)

8 MS. RICE: All in the same binder,
9 Ron.

10 Q They're actually -- so I think the
11 latter two are the start of the next binder.

12 A Yeah, no, I understand.

13 MS. RICE: Okay.

14 A But you're asking about basically
15 the first page of each, which is -- right?

16 Q Well, just if you -- if you think
17 you reviewed any part of these documents
18 before they were submitted to the Danish
19 government.

20 A No, I did not. I definitely did
21 not.

22 Q Did you become aware, at any point,
23 of the pension plans receiving payments from
24 the Danish government? And again, I'm asking
25 in 2014 and 2015?

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1 not sure. But I think I did.

2 Q Did you set up the LLC and plan
3 accounts at the same time?

4 A I don't think that is true,
5 actually. I don't think so. I think the
6 LLCs accounts were set up first.

7 I think, as I recall.

8 Q Do you recall there being any
9 reason for that?

10 A Just -- if there was a reason for
11 it, it was just my interaction with this guy,
12 Michael, the guy at Wells Fargo. I can't --
13 I don't remember any other reason.

14 Q And Mr. Van Merkenstein's e-mail
15 refers to someone named Freed.

16 Is that Michael Freed, the person
17 at Wells Fargo you dealt with?

18 A Well, if that's -- if that's what
19 it says. I'm looking at some e-mails here
20 that have his name, so my guess is that's
21 probably his name.

22 I don't remember.

23 Q Okay. So you -- you testified that
24 you deposited a hundred -- around a hundred
25 dollars in each of the five LLCs and each of

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1 the plan accounts.

2 Was that your own money or did
3 someone else provide it?

4 A No, that was my hard-earned money.

5 Q All right. Why don't we return to
6 the second binder?

7 A Okay. I'm going to put this one on
8 the desk for now.

9 Q Yes. I don't think we'll be coming
10 back to it too often, but obviously I can't
11 promise that.

12 A Okay.

13 Q If you turn to Exhibit 1065?

14 MR. MCGOEY: Mark this as 1065.

15 (Whereupon the above mentioned was
16 marked for Identification.)

17 A 1065?

18 Q Yes.

19 A Uh-huh.

20 Q So this is an account statement for
21 the Crucible Ventures Plan for September to
22 October of 2014.

23 And on the second page, you see a
24 deposit of a hundred dollars, which brings
25 the balance up to -- is that 76?

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1 MR. MCGOEY: Mark this as 1106.

2 (Whereupon the above mentioned was
3 marked for Identification.)

4 A Uh-huh.

5 Q This shows a check for \$10,000 from
6 August 13th.

7 Do you believe that was made out to
8 yourself?

9 A I do.

10 Q Okay. Then we can move to 1107.

11 MR. MCGOEY: Mark this as 1107.

12 (Whereupon the above mentioned was
13 marked for Identification.)

14 A Uh-huh.

15 Q So on the second page, there's a
16 check for \$19,000 on November 10th.

17 A Right.

18 Q And I think we've seen --

19 A Right.

20 Q I think we've seen several checks
21 made out that day.

22 Does that refresh your recollection
23 at all that you might have wrote several
24 checks that day?

25 A You mean -- you mean several checks

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1 any paperwork at the end of 2016?

2 A I don't. I don't remember any. I
3 mean, obviously, I did, but I don't remember
4 any.

5 Q So I think -- I believe you
6 testified earlier that the pension plan
7 accounts are still open?

8 A Yeah, I -- I mean, unless something
9 has happened in the last week that I don't
10 know about. But I, you know --

11 Q We won't hold to you any activity
12 in the last week. Do you know --

13 MS. RICE: Promise?

14 MR. MCGOEY: I promise.

15 Q Do you know if the plans themselves
16 are still in existence?

17 A Well, no, I don't know. I don't
18 know.

19 Q As far as -- you don't know that
20 they were dissolved, though?

21 A No, I definitely do not know that
22 they were dissolved. I definitely do not
23 know that.

24 Q Are the five LLCs still active?

25 A I'm sorry that I don't understand